

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JULIUS LUCKETT AND BRENDA  
LUCKETT**

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*Plaintiffs,*

**CIVIL ACTION NO. 4:17-cv-2522  
JURY**

**V.**

**STARSTONE NATIONAL INSURANCE  
COMPANY**

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*Defendant.*

**STARSTONE NATIONAL INSURANCE COMPANY'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, STARSTONE NATIONAL INSURANCE COMPANY (“StarStone”) files its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy, and respectfully shows the following:

**I. PROCEDURAL BACKGROUND**

1. On June 29, 2017, Plaintiffs, Julius Luckett and Brenda Luckett (“Lucketts” or “Plaintiffs”) filed their Original Petition in a case styled *Julius Luckett and Brenda Luckett vs. StarStone National Insurance Company*, Cause No. 17-06-24394, pending in the 506th Judicial District Court for Waller County, Texas.

2. StarStone received a copy of the Plaintiffs’ Original Petition on or about July 17, 2017.

3. StarStone files this notice of removal within 30 days of receiving Plaintiffs’ Original Petition. See 28 U.S.C. § 1446(b). This Notice of Removal is being filed within one year of the commencement of this action. See *id.*

4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a).

5. Attached hereto are copies of the following documents:

- **Exhibit 1:** Plaintiffs' Original Petition;
- **Exhibit 2:** Civil Case Information Sheet;
- **Exhibit 3:** Civil Process Request;
- **Exhibit 4:** Citation issued to StarStone National Insurance Company;
- **Exhibit 5:** Citation and CMRR Return of Citation to StarStone;
- **Exhibit 6:** Defendant, StarStone National Insurance Company's Original Answer and Affirmative Defenses;
- **Exhibit 7:** List of Parties and Counsel; and
- **Exhibit 8:** StarStone's Corporate Disclosure Statement.

## I. BASES FOR REMOVAL

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

### A. Plaintiffs and Defendant StarStone are diverse.

7. **Plaintiffs**, Julius and Brenda Luckett are individuals who are residents of Waller County, Texas.

8. **Defendant**, StarStone National Insurance Company is a Delaware company with its principal place of business located at Harborside 5, 185 Hudson Street, Suite 2600, Jersey City, New Jersey. StarStone is authorized to transact business and has transacted business in Texas.

9. Thus, this lawsuit is between citizens of different states, and there is complete diversity of citizenship between the Plaintiffs and StarStone.

**B. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction.**

10. In determining the amount in controversy, the court may consider “policy limits... penalties, statutory damages, and punitive damages.” *St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see Ray v. State Farm Lloyds*, No. CIV.A.3:98-CV-1288-G, 1999 WL 151667, at \* 2-3 (N.D. Tex. Mar. 10, 1999) (finding a sufficient amount in controversy in plaintiff’s case against their insurance company for breach of contract, fraud, negligence, gross negligence, bad faith, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, and mental anguish); *Fairmont Travel, Inc. v. George S. May Int’l Co.*, 75 F. Supp.2d 666, 668 (S.D. Tex. 1999) (considering DTPA claims and the potential for recovery of punitive damages for the amount in controversy determination); *Chittick v. Farmers Ins. Exch.*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994) (finding a sufficient amount in controversy after considering the nature of the claims, the types of damages sought and the presumed net worth of the defendant in a claim brought by the insureds against their insurance company for actual and punitive damages arising from a claim they made for roof damages).

11. This is a civil action in which the amount in controversy exceeds \$75,000. Paragraph 1.1 of Plaintiffs’ petition indicates “Plaintiffs seek monetary relief in an amount over \$100,000”. Plaintiffs allege that defendant is liable under a residential insurance policy because Plaintiffs made a claim under that policy and defendant wrongfully adjusted and underpaid Plaintiffs’ claim. This evidence clearly demonstrates that the amount in controversy in this case exceeds the jurisdictional requirements.

## **II. THIS REMOVAL IS PROCEDURALLY CORRECT**

12. StarStone received service of this lawsuit on July 17, 2017. Thus, Star Stone is filing this Notice within the 30-day time period required by 28 U.S.C. § 1446(b).

13. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because i) this District and Division include the county in which the state action has been pending, and ii) a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this District and Division.

14. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

15. Promptly after StarStone files this Notice of Removal, written notice of the filing will be given to Plaintiffs pursuant to 28 U.S.C. §1446(d).

16. Promptly after StarStone files this Notice of Removal, a true and correct copy of same will be filed with the Clerk of the Waller County District Court pursuant to 28 U.S.C. §1446(d).

## **III. CONCLUSION**

17. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Defendant, StarStone National Insurance Company hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ George H. Arnold  
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**ATTORNEYS FOR DEFENDANT  
STARSTONE INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 16, 2017, a true and correct copy of the foregoing instrument was delivered to all known counsel of record in accordance with the Federal Rules of Civil Procedure, and any applicable Local Rules, as follows:

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*Counsel for Plaintiffs*

/s/ Marilyn S. Cayce  
Marilyn S. Cayce